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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
8

9 UNITED STATES OF AMERICA, CR S-02-0151-MCE-CMK

10 Plaintiff,

11 vs.

ORDER


12 SCOTT MICHAEL VOGELSANG,

13 Defendant.  
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15 Pending before the court is defendant's motion for issuance of a certificate of appealability  
16 (ECF No. 268). Specifically, defendant seeks to appeal the court's January 14, 2011, order  
17 denying his motion to set aside the judgment under Federal Rule of Civil Procedure 60. Because  
18 a certificate of appealability is not required to appeal the denial of a Rule 60 motion in a criminal  
19 case, and because the docket reflects that defendant has already filed an appeal of the January 14,  
20 2011, order (See ECF No. 265), the request for a certificate of appealability is denied as  
21 unnecessary.

22 IT IS SO ORDERED.

23 Dated: March 21, 2011

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25 MORRISON C. ENGLAND, JR.  
26 UNITED STATES DISTRICT JUDGE